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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91194547
Party	Defendant The Cannon Group of Companies Inc. dba Gunpal Inc
Correspondence Address	BENJAMIN PHILIP CANNON THE CANNON GROUP OF COMPANIES INC 1083 VINE STREET #215 HEALDSBURG, CA 95448-4830 UNITED STATES ben@GeoVario.com
Submission	Other Motions/Papers
Filer's Name	Benjamin P Cannon
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Signature	/Benjamin P Cannon/
Date	04/07/2011
Attachments	First Document Requests to Opposer.pdf ( 10 pages )(119498 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application No. 77/784,325 _____)	)	
PayPal, Inc.	)	
	)	
Opposer	)	
v.	)	Opposition No. <b>91194547</b>
	)	
GPal, Inc	)	
	)	
Applicant.	)	
_____	)	

**APPLICANT GPAL, INC.'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS  
AND THINGS TO OPPOSER PAY PAL, INC.**

Pursuant to the provisions of Rule 34 of the Federal Rules of Civil Procedure and the provisions of 37 C.F.R. § 2.120, Applicant **GPal, Inc.** hereby addresses its First Request for Production of Documents and Things to Opposer, PayPal, Inc., to be responded to and complied with fully within 30 days of service thereof.

**Instructions and Definitions of Terms**

- A. As used herein, the term "Opposer" refers to **PayPal, Inc.**, and/or its licensee(s), and includes all other partnerships, corporations or other business entities (whether or not separate legal entities) subsidiary to, parent to, or affiliated with International Intimates, Inc., including all of its or their partners, principals, officers, directors, trustees, employees, staff members, agents and representatives, including counsel for **PayPal, Inc.**
- B. The term "Applicant" refers to **GPal, Inc.**

C. The phrase "Applicant's Mark" refers to the mark as depicted in U.S. Trademark Application Serial No. 77/784,325.

The phrase "Opposer's Mark" refers to the mark as depicted in U.S. Trademark Registration Nos. 2,646,490  
2,879,561  
2,959,971  
3,069,209  
3,680,256

D. Whenever the terms "documents" or "all documents" are used herein, these terms are meant to include all documents available to Opposer and, further, to include, without limitation, any written, recorded, graphic, or printed matter, in whatever form, whether printed and/or produced by hand or any other process, specifically including (1) all originals, copies or drafts, and (2) originals, copies or drafts on which appear any notes or writings placed thereon after the document was first printed, typed, recorded, or made into graphic matter, however produced or reproduced, in the actual or constructive possession of Opposer, including, without limitation, any letters, telegrams, memoranda, writings, e-mails, circulars, monographs, bulletins, manuals, speeches, audio and video tapes, drawings, blueprints, recordings, computer disks or tapes, computer electronic or optical memory devices in readable form, computer printouts, computer electronic messages, notes, correspondence, communications of any nature, summaries of records of conversations or conferences, information which can be retrieved by any process, test and/or analysis, reports and data sheets, specifications, sketches, minutes or reports and/or summaries or interviews, reports and/or summaries of investigations, opinions or reports of consultants, agreements and contracts, brochures, pamphlets, advertisements, letters to the trade,

and including any tangible things within the scope of Rule 34(a)(1), Federal Rules of Civil Procedure.

E. Any document bearing on any sheet or side thereof any marks, not a part of the original text or any reproduction thereof is to be considered a separate document for purposes of responding to the following specific document requests.

F. Should Opposer assert to be privileged or confidential any document for which production is requested by any of the following specific requests, then as to each document subject to such assertion, Opposer shall list such document(s) and supply information as requested in Paragraph E of the Instructions and Definitions set forth in "Applicant **GPal, Inc** First Set of Interrogatories to Opposer **PayPal, Inc.**" concerning such documents, and additionally shall indicate that it claims privilege or confidentiality therefore, briefly state the nature of the document, the sender, the author, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list of Opposer associated with such document, a summary statement of the subject matter(s) of such document in sufficient detail to permit the Trademark Trial and Appeal Board to conduct an analysis to reach a determination of any claim of privilege or exclusion and separate indication of the basis for assertion of privilege or the like for each such document.

G. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses and information that might otherwise be construed to be outside their scope.

H. Subject to Rule 26(e) of the Federal Rules of Civil Procedure each of the separate requests herein is deemed to seek documents and things as of the date hereof and these requests shall be deemed to be continuing and any additional documents or things relating in any way to

these requests and to events occurring or documents existing prior to the filing of the Opposition herein which Opposer acquires or which becomes known to Opposer up to and including the close of the rebuttal testimony period shall be furnished to Applicant within a reasonable time after such information is acquired or becomes known.

### **REQUESTS FOR PRODUCTION**

1. Produce an organization chart for Opposer that includes, without limitation, the individuals involved in the advertising, marketing, manufacture and/or sale of any goods or services sold and/or intended to be sold, offered or promoted by Opposer in connection with or bearing Opposer's Mark or any mark including the term "PAY" and/or "PAL".
2. Produce documents sufficient to identify all user accounts that have been closed or limited, at any time, due to violations of PayPal's Acceptable Use Policy regarding Firearms or Ammunition or Firearm Accessories.
- 3.
4. Produce documents sufficient to identify all goods or services that Opposer has offered for sale, sold, provided and/or intends to offer for sale, sell or provide under Opposer's Mark and/or any mark that includes the term "PAY" and/or "PAL" including without limitation, the date each such goods or services were first sold.
5. Produce documents sufficient to identify all channels of trade through which Opposer's goods or services are promoted, advertised or sold and/or intended to be promoted,

advertised or sold that bear and/or are sold in connection with Opposer's Mark and/or any mark including the term "PAY" and/or "PAL".

6. Produce documents sufficient to show the sales (in units and dollars) by Opposer of all goods or services bearing and/or sold in connection with Opposer's Mark and/or any mark including the term "PAY" and/or "PAL" from Opposer's claimed first use date to the present.

7. Produce documents sufficient to identify the target consumers, ordinary purchasers and/or typical purchasers of goods or services promoted, advertised and/or sold bearing and/or in connection with Opposer's Mark and/or any mark including the term "PAY" and/or "PAL".

8. Produce documents that record, refer to, or relate to Opposer's advertising and promotion, intended advertising and promotion, marketing or business plans related to any goods or services bearing and/or that are sold or to be sold in connection with Opposer's Mark and/or any mark that includes the term "PAY" and/or "PAL".

9. Produce all documents that refer or relate in any manner to the use with any goods or services by any third party of any mark that includes the term "PAY" and/or "PAL".

10. Produce all documents that refer or relate to any trademark applications and/or trademark registrations of third parties for use with any goods or services that include the term "PAY" and/or "PAL".

11. Produce all documents referring or relating to any permission, authorization, agreement, and/or license granted or by Opposer, or by any person acting for or on its behalf, to any third party to use the term "PAY" and/or "PAL" as a component of a trademark, service mark, Internet domain name or trade name.

12. Produce all documents that record, refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution of any trademark applications for Opposer's Mark or any mark including the term "PAY" and/or "PAL," including without limitation any search reports and/or opinions related thereto.

13. Produce all documents that record, refer to, or relate to Opposer's selection and/or adoption of Opposer's Mark, including, but not limited to, photographs, drawings, and specification sheets, and all drawings or documents related to rejected designs.

14. Produce all documents that refer or relate to "GPAL" or "GUNPAL", Applicant's Marks and/or any mark used and/or owned by Opposer that includes the term "PAY" and/or "PAL" including, without limitation, all Board of Directors' meeting minutes, internal memoranda, reports to management, reports to officers and/or reports to Board of Directors.

15. Produce all documents that refer to or relate to communications, oral or written, made to and/or received from third parties regarding Opposer's Mark.

16. Produce a sample of each and every different advertisement, intended advertisement, item of promotional material and intended item of promotional material printed and disseminated, including, but not limited to, signs, displays, brochures, catalogs, websites, mailers, price lists, etc., which is intended or has been used or disseminated at any time by or for Opposer bearing Opposer's Mark.

17. For each of the channel of trade identified in response to Applicant's Interrogatory 13, and to the extent not already produced, produce a representative sample of advertising and/or promotional materials used and/or disseminated by or for Opposer in that channel of trade.

18. Produce documents sufficient to show the geographic scope of the advertising, distribution, and sale of goods under Opposer's Mark.

19. Produce documents sufficient to show Opposer's advertising and/or promotional expenditures, or expected advertising and/or promotional expenditures, for Opposer's Mark on a quarterly basis since Opposer first began use of Opposer's Mark.

20. Produce a sample of each label, hangtag, sign, print, package, wrapper and/or receptacle that bears Opposer's Mark.

21. Produce all documents that record, refer to, or relate to any intention and/or plans of Opposer to expand its use of Opposer's Mark and/or any mark that includes the term "PAY" and/or "PAL" to any goods or services other than payment processing.



22. Produce all documents that record, refer to, or relate to any communication, oral or written, received by or sent from Opposer relating to a comparison and/or the similarity of Opposer's Mark and Applicant's Mark.

23. Produce all documents that refer to, relate to, evidence, or otherwise concern any instance or occurrence of likelihood of confusion and/or actual confusion on the part of any person as a result of the use by the parties of their respective "PAL" containing marks.

24. Produce all documents that refer to, relate to, evidence, or otherwise concern any instance or occurrence of confusion and/or mistake on the part of any person as to the source of any product or service offered, provided and/or sold by GPAL, Inc. and/or its licensees under or in connection with Applicant's Mark, and/or whether any product or service offered, provided and/or sold by GPAL, Inc. and/or its licensees under Applicant's Mark, was a product or service of Opposer.

25. Produce all documents that record, refer to, or relate to any inquiry, investigation, evaluation, analysis, or survey conducted by Opposer or any person acting for or on behalf of Opposer regarding any issues involved in this proceeding.

26. Produce all documents not previously requested that refer to, relate to, or otherwise concern communications between Opposer and any third party that refers or relates in any manner to Applicant and/or Applicant's Mark.

27. Produce a copy of any statements and/or opinions, oral or written, obtained by Opposer or any person acting for or on behalf of Opposer regarding any of the issues in this Opposition proceeding.

28. Produce all documents that record, refer to, or relate in any manner to the subject matter of this Opposition proceeding.

29. Produce a copy of all documents, other than those produced in response to any of the foregoing requests, upon which Opposer intends to rely in connection with this Opposition proceeding.

30. Produce all documents identified in response to any of Applicant's Interrogatories to Opposer not produced in response to the any of these requests.

Respectfully submitted,  
GPal, Inc.

A handwritten signature in black ink, appearing to read "Ben Cannon", with a long horizontal flourish extending to the right.

Mr. Benjamin P. Cannon.  
Chairman/CEO  
GPal, Inc.

Date: April 4, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Applicant GPal's First Request for Production of Documents and Things to Opposer PayPal Inc.**, has been served upon [BOBBY A GHAJAR], [HOWERY LLP], [550 South Hope Street, Suite 1100, Los Angeles, CA 90071] via e-mail ([ghajarb@howery.com](mailto:ghajarb@howery.com)) 4<sup>th</sup> day of April, 2010.



Benjamin P. Cannon

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